

YOUTH SERVICES POLICY

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| Title: Searches of Employees Next Annual Review Date: 11/19/2014 | Type: C. Field Operations Sub Type: 2. Security Number: C.2.4 |
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| References: U.S. Constitution 4th and 14th Amendments; Louisiana Constitution, Article 1, Section 5; La. C.Cr.P.Art. 215.2; La. R.S. 14:402; U.S. v. Sihler, 562 F.2d 349 (1977, U.S. 5th Cir.); Sec. & Law Enforcement Employees District Council 82 v. Carey, 737 F.2d 187 (1984, U.S. 2nd Cir.); Thorne v. Jones, 765 F.2d 1270 (5th Cir., 1985); ACA Standard 4-JCF-2A-20 (Performance-Based Standards for Juvenile Correctional Facilities), YS Policy Nos. A.2.24 "Staff Development and Training Plan", C.1.3 "Crimes Committed on the Grounds of YS Facilities / Office Buildings and/or Properties", C.2.16 "Entrance Posts for Secure Care Facilities (Front, Rear/Back, Pedestrian and Vehicular", C.2.22 "Contraband Control – Secure Care Facilities", C.4.6 "Securing Physical Evidence/Crime Scene", and C.5.1 "Performance Data and Information" | |
| STATUS: Approved | |
| Approved By: Mary L. Livers, Deputy Secretary | Date of Approval: 11/19/2013 |

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish the procedures for conducting employee searches of employees at a YS secure care facility.

III. APPLICABILITY:

All YS employees.

Facility Directors are responsible for ensuring that all necessary procedures are in place to comply with this policy.

YS employees are responsible for familiarizing themselves with the contents of this policy prior to visiting a YS secure care facility to ensure established guidelines are adhered to.

IV. DEFINITIONS:

Contraband - Any item(s) introduced or found on facility grounds, including any improperly possessed drugs (whether illegal or legal) and weapons, that are expressly prohibited by applicable statutes and YS policies, specifically identified as contraband items.

Contraband includes, but is not limited to, the following:

- A substance or device defined in the uniform Controlled Dangerous Substance statute La. R.S. 14:402.D.1;
- Weapons or other instrumentalities which could be used as a dangerous weapon or plans to manufacture such, or to aid an escape;
- Unauthorized explosives or combustibles;
- Alcoholic or other beverages producing an intoxicating effect;
- Aerosol products producing an intoxicating effect;
- Glass containers;
- Stolen property;
- Medication (no medication shall be brought onto the grounds of a secure care facility without approval from the Facility Director. Medication allowed shall follow the guidelines of YS Policy No. C.2.22)
- Unauthorized currency or coin (\$20 maximum; refer to YS Policy No. C.2.5 for visitors);
- Unauthorized articles of food, clothing or toiletries;
- Unauthorized telecommunications equipment, including, but not limited to, cellular phones, beepers, or global positioning equipment (refer to Section V below for exceptions);
- Unauthorized tape recorders, cameras and camcorders;
- Unauthorized electronics such as laptop computers, tablets or thumb drives;
- Unauthorized movies, music videos, CDs, DVDs, cassette tapes, VHS tapes, or other devices containing recorded music, images, or other video; and
- Nude photographs/pornography/pornographic literature.

Executive Staff – YS staff that hold the positions of Deputy Secretary, Assistant Secretary, Undersecretary, Chief of Operations, Deputy Assistant Secretary, General Counsel, and Regional Directors.

General Search - A search whereby a person is required to remove his clothing down to his underwear, in order that his clothes be inspected for contraband and his person be observed.

Pat-Down Search - Running of hands over a fully clothed person, conducted by a member of the same sex, for the purpose of discovering contraband.

Probable Cause - For purposes of this policy, articulated knowledge supported by reasonable suspicion that contraband is being secreted. Probable cause exists when facts and circumstances within the staff member's knowledge and about which he has reasonable trustworthy information are sufficient to support a reasonable belief that contraband may be found at the place or on the person to be searched.

Property Searches - Searches of personal property brought onto facility grounds including but not limited to, vehicles, lunchboxes, purses, bags, coats, jackets, hats, caps, belts, gloves, shoes, socks, garments covering the head, scarves, and briefcases.

Reasonable Suspicion - Suspicion supported by facts, information, tips, and/or circumstances, which lead an employee of ordinary caution to believe that a person is secreting contraband in or on his body or elsewhere in his area of immediate control. Factors to consider in determining reasonable suspicion include:

1. Nature of the tip or information;
2. Reliability of the information;
3. Degree of corroboration of the tip or other information; and
4. Other facts contributing to suspicion or lack thereof.

Search Equipment - Search equipment authorized for use is hand-held transfriskers, ground metal detectors, walk-thru metal detectors and mirrors.

Strip Search - A visual search of a person's nude body, conducted by two (2) employees of the same sex as the employee being searched, in a private place, out of the view of persons other than those conducting the search. The person being searched shall be required to bend over, squat, turn around, raise his arms, lift the genitals, cough, and raise the breast. (The foregoing list is not exclusive.) The clothing and all property of the person being searched shall be thoroughly searched prior to returning it.

Unusual Occurrence Report (UOR) - A form/document that must be completed by staff to report incidents or observations of events that may have an impact on any aspect of the agency. UOR forms shall be made available to all employees, working in all areas at all times. Employees must complete and submit a UOR prior to the end of their tour of duty on the day the incident was observed or comes to the employee's attention in any way.

Vehicle Search - A search of an employee's vehicle for the purpose of discovering contraband.

YS Employee - For the purposes of this policy, a YS employee includes employees and contract providers.

V. POLICY:

The United States and Louisiana constitutions prohibit unreasonable searches. Louisiana law (La. R.S. 14:402) makes it a crime to bring contraband into a secure care facility.

Therefore, it is the Deputy Secretary's policy that reasonable searches of YS employees are permitted in order to halt the flow of contraband into secure care facilities under the jurisdiction of the Office of Juvenile Justice (OJJ).

Prior to accepting employment, employees shall be advised that they may be subjected to searches, and possible disciplinary and/or criminal consequences, which may result from any attempt to bring contraband into a YS secure facility or failure to cooperate during a search.

Executive Staff and Investigative Services (IS) staff are exempt from routine searches.

YS employees shall be allowed to possess their "state" issued cell phone on their person at all times. A list of YS employees entering the facility in possession of a "state" issued cell phone shall be maintained at the front gate.

YS employees conducting official OJJ business within a secure care facility may request approval from the Facility Director to enter the facility with the necessary items to perform their jobs (i.e. thumb drives, laptops, etc.).

VI. SEARCHES:

- A. In order to ensure that proper searches of all persons entering a secure care facility are conducted, there shall be two (2) staff assigned to the front entrance at critical entrance/exit times each day, pursuant to YS Policy No. C.2.16.
- B. Scanning with a metal detector (wand) is required on all persons entering the facility, with the exception of staff noted in Section VI. A. above.
- C. Property Search:

Property searches of employees are required daily prior to entering a secure care facility. Such searches are conducted at the front gate however, may be conducted anywhere on state property at any time.

D. Pat-Down Search:

1. Pat-down searches of employees may be conducted at any time in conjunction with a property search.
2. Random unannounced pat-down searches of employee's, may accompany a property search and may be authorized by the highest ranking staff member on duty.
3. The person being searched shall be required to:
 - a. Empty his pockets, purse, handbag, briefcase, or any other items where contraband may be concealed.
 - b. Remove any wig or hairpiece he may be wearing at the time of the search. This portion of the search must be conducted in a private place, out of the view of others.
 - c. Remove all outer wear (coats, jackets, hats, caps, gloves, shoes, socks, garments covering the head scarves, etc.) in order that these items be searched. The person shall not be required to remove articles of clothing that are the person's basic dress (shirts, pants, dress, skirt, etc.).
 - d. Run his hands through his hair.
 - e. Open his mouth for inspection.
4. The person conducting the search shall use his hands to touch the person being searched, through his clothes, in such a manner to determine if something is being concealed. If the person conducting the search discovers an unusual lump or bulge, etc., he shall order the person being searched to disclose the source of the unusual lump.
5. Failure to comply with this order constitutes reasonable suspicion to conduct a general search, as described below.
6. If contraband is found, the Facility Director shall be notified immediately, and shall contact the Investigative Services office located on the ground of the facility. Findings shall be documented on an "Unusual Occurrence Report" (UOR) by all persons involved at the facility level. The UOR shall contain the circumstances surrounding the search, reasons for the search, and the results of the search. Copies of all UORs shall be provided to IS immediately upon completion.

E. General Search:

1. General searches may be conducted any time there is reasonable suspicion and/or probable cause, with the approval of the Facility Director.
2. This search shall be conducted in a private place, by two (2) employees of the same sex as the person being searched, and out of the view of persons other than those conducting the search. A general search shall be conducted although a staff member may claim he is not wearing underwear.
3. With probable cause, the person being searched may be required to remove additional outer clothing.
4. Any occurrence of a general search of an employee shall be documented on a UOR by all persons involved at the facility level, and the Regional Director where appropriate. The UOR shall contain the circumstances surrounding the search, reasons for the search, and the results of the search. Copies of all UORs shall immediately be provided to the IS office located on the facility grounds. The incident shall also be reported as required by YS Policy No. C.5.1.

F. Strip Search:

1. When there is reasonable suspicion directed toward a particular employee, a strip search may be conducted with the prior approval of the Facility Director. Random strip searches of employees are PROHIBITED. Strip searches of groups of employees are prohibited absent reasonable suspicion directed toward the entire group.
2. Strip searches of employees shall be conducted by one (1) Juvenile Justice Specialist (JJS) and witnessed by one (1) additional facility manager (Assistant Director/Deputy Director/Facility Director or IS). All such searches shall be conducted and witnessed by persons of the same sex as the employee(s) being searched.
3. All strip searches of employees must be documented on a UOR by all persons involved in the actual search (searcher/witness/employee being searched), and contain the circumstances surrounding the search, reasons for and the results of the search. A copy of the UOR written by the employee being searched shall be given to the employee. Copies of all UORs shall immediately be provided to the IS located on the facility grounds. The incident shall also be reported as required by YS Policy No. C.5.1.

4. The UORs must not contain any information that would tend to identify the source of any confidential information which was part of the basis for the search. This information must be contained in an attachment to the UOR.

G. Suspicion of Contraband Being Secreted in a Body Cavity:

1. When there is probable cause that a particular employee is secreting contraband within a body cavity, on the authority and instruction of the Facility Director, the IS Office located on the grounds of the facility or the Director of IS shall be immediately contacted, and the employee shall be detained as allowed by C.Cr.P. Art.215 for up to one (1) hour for questioning by IS staff.
2. IS shall determine whether the employee shall be removed from the facility grounds or detained for up to one (1) hour in order for local Law Enforcement to be notified for handling. (Refer to YS Policy No. C.1.3 for further information.)

H. Searches by Narcotic Drug-Sniffing Dogs:

1. Narcotic dogs may be used to conduct a property search at any time. At no time shall the body of an employee be subjected to a K-9 search.
2. Only those narcotic dogs certified by a nationally recognized certifying agency may be used to conduct searches of property for the presence of drugs. Nationally recognized organizations include the "National Police Canine Association", "United States Police Canine Association" and "National Narcotics Dog Detector Association".
3. The Facility Director, or IS staff requesting narcotic dog services shall ensure the dog(s) have current certifications at the time of the request.

I. Vehicle Search:

1. All vehicles entering or exiting the grounds of a secure care facility shall be searched in the presence of the employee.
2. Vehicle searches may be conducted at anytime and anywhere on state property in the presence of the employee.

VII. DISCOVERY OF CONTRABAND / DETAINMENT OF EMPLOYEES

- A. When contraband is discovered pursuant to searches conducted as outlined in Section VI.A through VI.F., the Facility Director shall immediately contact the IS Office located on the facility grounds or the Director of IS, if applicable, regardless of the time of day or day of the week, of the incident to ensure the handling of the evidence/contraband and the chain of custody are adhered to.
- B. The employee shall be detained for questioning by IS.
- C. UORs shall be completed by all employees who discover or are a witness to the discovery of contraband items prior to the end of their tour of duty.
- D. Pursuant to YS Policy No. C.4.6, there shall be strict accountability for physical evidence / contraband collected in connection with the commission of a crime and/or violation of an employee rule to preserve the integrity of the disciplinary and/or legal process.

In order to successfully introduce physical evidence, the evidence must be properly identified, the continuity of the chain of custody must be proven, and the evidence must be material and relevant.

Therefore, all physical evidence/contraband shall be turned over to an IS Investigator located at the secure care facility.

VIII. DISPOSITION OF CONTRABAND:

- A. ALL contraband items shall be evidenced pursuant to the procedures established in YS Policy No. C.4.6, and shall be managed by the IS Office located on the facility grounds or the Director of IS until completion of the investigation or possible litigation.
- B. Following the completed investigation/litigation, contraband shall be disposed of in the following manner with documentation of the method of disposal:
 - 1. Items may be donated to a charitable organization;
 - 2. Items of little or no value may be destroyed;
 - 3. Cash shall be disposed of in accordance with La.R.S. 14:402(F); or
 - 4. Items may be returned to the employee upon their exit from the grounds of the facility by IS.

IX. STAFF DEVELOPMENT:

- A. All current employees shall receive training relative to the contents of this policy on an annual basis.
- B. New employees shall receive this training within 90 days of hire and annually thereafter.
- C. This policy shall be part of the annual in-service training curriculums.
- D. All training shall be documented and entered into the "Training Records Entry Completed" (TREC) database at the Unit level.
- E. Instructions on how to file complaints must be readily available to staff, and shall include the use of the Employee Hotline for anonymous reporting.

Previous Regulation/Policy Number: C.2.4
Previous Effective Date: 05/29/2009
Attachments/References: